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**BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 2009-76

JANICE MAE JAMES
a.k.a. JANICE MAE RUGGERI,
a.k.a. JANICE MAE NORRIS,
a.k.a. JANICE MAE SPINKS

A C C U S A T I O N

2521 Hilltop Drive, PMB 299
Redding, California 96002-0299

Registered Nurse License No. 617756

Respondent.

Complainant alleges:

PARTIES

1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

2. On or about April 28, 2003, the Board issued Registered Nurse License Number 617756 to Janice Mae James, also known as Janice Mae Ruggeri, Janice Mae Norris and Janice Mae Spinks ("Respondent"). Respondent's registered nurse license will expire on November 30, 2008, unless renewed.

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7. Code section 2765 states:

A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions and duties of a registered nurse is deemed to be a conviction within the meaning of this article. The board may order the license or certificate suspended or revoked, or may decline to issue a license or certificate, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

8. Code section 4060 states:

No person shall possess any controlled substance, except that furnished to a person upon the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist, physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled with the name and address of the supplier or producer.

Nothing in this section authorizes a certified nurse-midwife, a nurse practitioner, a physician assistant, or a naturopathic doctor, to order his or her own stock of dangerous drugs and devices.

9. Code section 4324, subdivision (a), states:

Every person who signs the name of another, or of a fictitious person, or falsely makes, alters, forges, utters, publishes, passes, or attempts to pass, as genuine, any prescription for any drugs is guilty of forgery and upon conviction thereof shall be punished by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

10. Health and Safety Code section 11170 states that no person shall prescribe, administer, or furnish a controlled substance for himself.

11. Health and Safety Code section 11173, subdivision (a), states, in pertinent part, that "[n]o person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation, or subterfuge . . ."

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1 12. California Code of Regulations, title 16, section 1444 states, in pertinent
2 part:

3 A conviction or act shall be considered to be substantially related to the
4 qualifications, functions or duties of a registered nurse if to a substantial
5 degree it evidences the present or potential unfitness of a registered nurse to
6 practice in a manner consistent with the public health, safety, or welfare . . .

6 **Cost Recovery**

7 13. Code section 125.3 provides, in pertinent part, that the Board may request
8 the administrative law judge to direct a licensee found to have committed a violation or
9 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
10 and enforcement of the case.

11 **CONTROLLED SUBSTANCES AT ISSUE**

12 14. "Lortab", a combination drug containing hydrocodone bitartrate and
13 acetaminophen, is a Schedule III controlled substance as designated by Health and Safety Code
14 section 11056, subdivision (e)(4).

15 15. "Vicodin ES", a compound consisting of 7.5 mg of hydrocodone bitartrate,
16 also known as dihydrocodeinone, and 750 mg of acetaminophen per tablet, is a Schedule III
17 controlled substance as designated by Health and Safety Code section 11056, subdivision (e)(4).

18 **FIRST CAUSE FOR DISCIPLINE**

19 **(Criminal Conviction)**

20 16. Respondent is subject to disciplinary action pursuant to Code section
21 2761, subdivision (f), in that on or about November 14, 2005, in the criminal proceeding titled
22 *People v. Janice Mae Ruggeri* (Super. Ct. Shasta County, 2005, Case No. 05F3355), Respondent
23 was convicted by the court on her plea of nolo contendere to violating Penal Code section 459
24 (second degree commercial burglary, a felony) and Health and Safety Code section 11368
25 (forging and issuing a prescription, a felony), crimes substantially related to the qualifications,
26 functions, and duties of a registered nurse. The circumstances of the crimes are set forth in
27 subparagraph 17 (a) below.

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1 **SECOND CAUSE FOR DISCIPLINE**

2 **(Diversion, Possession, Prescription, and**

3 **Self-Administration of Controlled Substances)**

4 17. Respondent is subject to disciplinary action pursuant to Code section
5 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
6 2762, subdivision (a), in that while employed and/or on duty as the Director of Nurses at Willow
7 Springs, an assisted living facility located in Redding, California, Respondent did the following:

8 **Diversion of Controlled Substances:**

9 a. At the time of the incident below, Respondent was the Director of Nursing
10 at Willow Springs, in Redding, California, which is an assisted living facility that specializes in
11 the care of patients with Alzheimer's Disease. In or about March 2005, Respondent obtained the
12 controlled substances Lortab and Vicodin ES by fraud, deceit, misrepresentation, or subterfuge,
13 in violation of Health and Safety Code section 11173, subdivision (a), as follows:

14 **Resident R.S.**

15 1. On or about March 2, 2005, Respondent telephoned in a prescription for
16 90 tablets of Lortab 7.5 mg under resident R. S.'s name to Raley's Pharmacy located at
17 201 Lake Boulevard, Redding, California, and falsely represented to pharmacy staff that
18 the Lortab had been ordered by the resident's physician, and picked up or obtained the
19 Lortab from the pharmacy for her own personal use.

20 2. On or about March 19, 2005, Respondent telephoned in a refill
21 prescription for 90 tablets of Lortab under resident R. S.'s name to the Raley's Pharmacy
22 identified in subparagraph (1) above, and falsely represented to pharmacy staff that the
23 prescription had been ordered by the resident's physician. On or about March 23, 2005,
24 Respondent picked up or obtained the Lortab from the pharmacy for her own personal
25 use.

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1 **Resident F. K.**

2 3. On or about March 3, 2005, Respondent telephoned in a prescription for
3 90 tablets of Vicodin ES under resident F. K.'s name to Rite Aid Pharmacy located at
4 1801 Eureka Way, Redding, California, and falsely represented to pharmacy staff that the
5 Vicodin ES had been ordered by the resident's physician, and picked up or obtained the
6 Vicodin ES from the pharmacy for her own personal use.

7 **Resident C. M.**

8 4. On or about March 4, 2005, Respondent telephoned in a prescription for
9 90 tablets of Lortab 7.5 mg under resident C. M.'s name to Longs Drugs Pharmacy
10 located at 2511 Hilltop Drive, Redding, California, and falsely represented to pharmacy
11 staff that the Lortab had been ordered by the resident's physician, and picked up or
12 obtained the Lortab from the pharmacy for her own personal use.

13 5. On or about March 19, 2005, Respondent telephoned in a refill
14 prescription for 90 tablets of Lortab under resident C. M.'s name to the Longs Drugs
15 Pharmacy identified in subparagraph (4) above, and falsely represented to pharmacy staff
16 that the prescription had been ordered by the resident's physician. On or about March 21,
17 2005, Respondent picked up or obtained the Lortab from the pharmacy for her own
18 personal use.

19 **Possession of Controlled Substances:**

20 b. In or about March 2005, Respondent possessed various quantities of the
21 controlled substances Lortab and Vicodin ES without valid prescriptions from a physician,
22 dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor, as set forth in subparagraphs
23 17 (a)(1) through (5) above, in violation of Code section 4060.

24 **Prescription of Controlled Substances:**

25 c. In or about March 2005, Respondent prescribed various quantities of the
26 controlled substances Lortab and Vicodin ES for herself, as set forth in subparagraphs 17 (a)(1)
27 through (5) above.

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1 **Self-Administration of Controlled Substances:**

2 d. In or about March 2005, Respondent self-administered the controlled
3 substances Lortab and/or Vicodin ES without lawful authority therefor.

4 **THIRD CAUSE FOR DISCIPLINE**

5 **(Conviction Related to the Prescription of Controlled Substances)**

6 18. Respondent is subject to disciplinary action pursuant to Code section
7 2761, subdivision (a), on the grounds of unprofessional conduct, as defined by Code section
8 2762, subdivision (c), in that on or about November 14, 2005, Respondent was convicted of a
9 criminal offense involving the prescription of controlled substances, as set forth in paragraph 16
10 above.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein
13 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

14 1. Revoking or suspending Registered Nurse License Number 617756, issued
15 to Janice Mae James, also known as Janice Mae Ruggeri, Janice Mae Norris and Janice Mae
16 Spinks;

17 2. Ordering Janice Mae James, also known as Janice Mae Ruggeri, Janice
18 Mae Norris and Janice Mae Spinks, to pay the Board of Registered Nursing the reasonable costs
19 of the investigation and enforcement of this case, pursuant to Business and Professions Code
20 section 125.3;

21 3. Taking such other and further action as deemed necessary and proper.

22 DATED: 9/30/08.

23
24 Ruth Ann Terry
25 RUTH ANN TERRY, M.P.H., R.N.
26 Executive Officer
27 Board of Registered Nursing
28 Department of Consumer Affairs
 State of California

 Complainant